UNITED STATES PATENT AND TRADEMARK OFFICE

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09/857,160	07/01/2001	Charles Eldering	T705-13	9699

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/857,160
Filing Date: July 01, 2001
Appellant(s): ELDERING ET AL.

Andrew W. Spicer
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/3/2008 appealing from the Office action

mailed 10/12/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,977,964   WILLIAMS et al.   11-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 and 15-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Williams et al.(5,977,964 hereinafter Williams) in view of Official Notice.

With respect to claims 1, Williams teaches a method for identifying a subscriber

(Abstract and col. 3, lines 14-19). Monitoring a plurality of viewing sessions (i.e. viewing

activities such as volume control, channel changes while watching a cable or satellite

program is monitored)(Figure 1, col. 5, lines 52-59); clustering the viewing sessions

wherein the sessions within a cluster have a common identifier representative of a

subscriber selection data (i.e. the collection of viewing sessions and related data based

on the user's viewing habits and activities is recorded in user profile database 800);

identifying a subscriber from the clusters of viewing sessions based on the subscriber

selection data (i.e. the system determines which user of a plurality of users is currently

using the system by comparing received inputs and current settings to at least a subset

of the user profiles for at least a subset of the plurality of entertainment system

users)(col. 3, lines 14-19).

With respect to the newly added feature of the subscriber being identified

independently of subscriber characteristics established prior to the monitoring step.

Official Notice is taken that it is old and well known in marketing and the like to identify

demographic information of who is currently watching a TV program without having prior

information on the viewers in order to broadcast programs or commercial to a large

audience. For example, characteristics of subscribers such as income, gender, race

and the like is identified based on the current program watched. It would have been obvious to a person of ordinary skill in the art at the time of William's invention to have replaced the pre-entered data of known subscribers with the well known method of collecting viewing demographics of unknown users in order to offers programming/entertainment suggestions to a vast majority of users.

With respect to claims 2-3, Williams further teaches generating a program characteristics vector and a demographic vector for each of the viewing sessions (i.e. based on the characteristics for the program, the demographic for that user is determined. Example, a child or an adult is using the system)(col. 6, lines 40-49); processing the program characteristics vector and the demographic vector to generate one or more clusters of session data vectors (i.e. based on the nature of the program and the demographic of the user a profile is determined for that particular member of the household)(col. 6, lines 25-49).

With respect to claim 4, Williams further teaches generating a signature signal based upon the EPG related data (i.e. based upon the uses interactions, an identifier is selected for the user)(col. 5, lines 64-, col. 6, lines 1-12); and correlating the signature signal to one or more common identifiers (i.e. the user's identifier is matched to the other common identifiers for that user)(col. 5, lines 64-, col. 6, lines 1-12).

With respect to claims 15 and 23, Williams teaches a method of identifying a

subscriber, in a data processing system (Abstract). Obtaining a record of previous

viewing sessions (Figure 8); grouping the previous viewing sessions into at least one

session group according to at least one common characteristic (Figure 8); receiving a

plurality of inputs from a subscriber (Figure 3, 302); comparing said plurality of inputs to

said at least one session group(Figure 3, 304); and determining if said subscriber is

characterized according to one of said at least one session groups (Figure 8).

With respect to the newly added limitation of the grouping of the sessions

occurring independently of characteristics established prior to the monitoring steps.

Williams teaches classifying the programs as being a s-sports program, m-music, mv-

movies, n-news and so on. The program classification occurs prior to

obtaining/collecting the user's viewing sessions.

Claims 16-18 further recite creating a probabilistic determination of a subscriber

profile of said at least one session group based on the subscriber selection data and

targeting ads based on said probability (i.e. based on the user's selection, it determines

if a child is using the system and providing cereals or toys advertisement)(col. 6, lines

40-49).

With respect to claims 19-22, Williams further teaches that the determination is

based on the program viewed, channel changed, program guide accessed and volume

sequence (Figure 8).

(10) Response to Argument

Appellant argues that Williams does not teach clustering viewing sessions. The disagrees with Appellant because in Williams the viewing sessions corresponds to TV programs viewed. In Williams, the TV programs have a genre based on the program content. For example, S-sport, M-music, Mv-movies, N-news, etc (see figure 8). Based on the program's genre, Williams groups the programs as being sports, news programs, etc. and based on those program characteristics determine which users of the plurality of users is viewing the particular program.

With respect to the subscriber being identified independently of subscriber characteristics established prior to the monitoring step. Williams teaches grouping (i.e. clustering) the TV programs to identify a user (subscriber) based on the volume and specific user's viewing habits. Williams doesn't specifically teach the subscriber being identified independently of subscriber characteristics established prior to the monitoring step. Nevertheless, the Examiner had taken Official Notice is taken that it is old and well known in marketing and the like to identify demographic information or like or dislikes of who is currently watching a TV program without having prior information on the viewers in order to broadcast programs or commercial to a large audience. In order to offer programming/entertainment suggestions to a vast majority of users. For example, certain TV or radios shows and the like determine based on what a viewers is watching that he or she is likely to watch a similar show. Viewing children shows will lead to more children related programming.

Appellant argues that the claimed method does not teach identify the subscriber based on demographic information, but instead identification is based on user interactions with the system. The Examiner wants to point out that the claimed invention doesn't exclude based on the user interaction with the system, identifying demographic information for the user that would lead to customizing programming for a group of users. For example, by collecting user's interactions with the system it will determine the user likes and dislikes and will customize the program accordingly. Viewing music related channels will allow the system to know that the particular viewer is interested in music related programming.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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